

Application Serial No. 10/657,583
Reply to Office Action dated June 6, 2005

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REMARKS/ARGUMENTS

In the application, claims 1-17 and 32 are pending, with claims 5-17 and 32 being subject to a restriction requirement which has been petitioned to the Commissioner. That being the case, the Applicant has elected, with traverse, to continue the prosecution of claims 1-4 which are the subject of the present Office Action.

On page 5 of the Office Action, the Examiner has objected to the specification requesting that the Applicant amend the abstract of the disclosure so as to be directed to the invention of claims 1-4. The Applicant respectfully requests that the Examiner hold this requirement in abeyance until such time that a decision has been reached on the petition regarding the restriction requirement in this case.

The Examiner has objected to claim 2 as being dependent upon a non-existing claim. The Applicant submits that the mis-numbered dependency is a result of a minor typographical error and has been corrected so that claim 2 now properly depends from claim 1.

On page 6 of the Office Action, the Examiner has rejected claims 1-4 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. More specifically, the Examiner has rejected claim 1 as failing to lack an essential mechanism for moving an insert passed the folding fingers. The Examiner goes on to say that he considers the moving mechanism essential to the working of the folding apparatus. This rejection is respectfully traversed.

The requirement for definiteness under 35 U.S.C. § 112, second paragraph, is whether the claim meets the threshold requirements of clarity and precision, not whether more suitable language or modes of expression are available (see M.P.E.P. § 2173.02). The essential question pertaining to this requirement is whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and

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particularity. Definiteness of claim language must be analyzed, not in a vacuum, but in light of: the content of the application, the teaching of the prior art and claim interpretation that would be given by one possessing the ordinary skill in the pertinent art at the time the invention was made.

While the specification sets forth a preferred mechanism for moving the insert passed the folding fingers, it should be understood that a variety of mechanisms could be employed to carry out this identical function. Moreover, the invention could also function with the folding fingers moving over the insert as opposed to the insert moving passed the fingers. Furthermore, manual shifting of the insert could actually, though not desired, be employed. That being said, it is respectfully submitted that the scope of the claims are clear and there should be no absolute requirement placed on the Applicant to claim a mechanism for moving the insert passed the folding fingers. Actually, the Applicant submits that this mechanism is simply not essential to the overall apparatus. If the Examiner wishes to retain this rejection, it is proposed that claim 1 be amended to delete the phrases "as it passes the first folder finger" and "as it passes the second folder finger" so as to remove any reference to the insert "passing" the structure and, correspondingly, the need for any recitation to a mechanism for moving the insert past the folding fingers. The Examiner has also rejected claim 4 stating that there is a lack of structural/functional relationship between the insert magazine and the folding apparatus. Towards that end, claim 4 has been amended to recite that the insert magazine is connected to the frame for holding the insert prior to delivery to the first and second folding fingers. Also, claim 1 was amended to positively recite the frame as part of the overall apparatus so as to more particularly point out and distinctly claim the invention, without changing the scope thereof.

Claims 1 and 2 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Budd et al. (U.S. Patent No. 5,300,011). The Examiner argues that Budd et al. discloses an apparatus for folding an object (an airbag), with the apparatus having first and second pivot shafts indicated generally at 70 which are perpendicularly connected to first and second folding fingers 74A. The Applicant respectfully submits that, while

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folding fingers 74A appear to be perpendicularly connected to what the Examiner has identified as pivot shafts 70, pivot shafts 70 are certainly not perpendicularly connected to first and second lever arms 78. Relying upon Figures 6 and 7, it is clear that what the Examiner has identified as pivot shafts 70 are, in fact, secured at a non-perpendicular angle to what the Examiner has identified as the lever arms 78.

In addition, claim 1 requires that the first and second folding fingers are adapted to engage the insert as the insert passes the first and second folding fingers. This is simply not the case in Budde et al.. In Budde et al., the folding fingers 74A are operated in such a way so as to come together creating a fold in an airbag with the airbag being subsequently lowered to allow the folding fingers to create additional folds. At no point during the period of engagement of the airbag and the folding fingers is the airbag moving passed the first and second folding fingers.

With respect to claim 2, the Examiner argues that Budde et al. further discloses third and fourth pivot shafts which the Examiner identifies as the structure that connects lever arms 78 to a reciprocating plate 76, asserting that the third and fourth pivot shafts are considered to be cam followers as they follow a reciprocating movement of plate 76. The Applicant respectfully submits that the structure being relied upon by the Examiner simply does not constitute a cam follower. Even if the Examiner maintains this position, it should be realized that an axis of the structure identified as the "cam follower" would not be or is not parallel to an axis of the pivot shaft as required by claim 2. Accordingly, the Applicant respectfully submits that this claim should be allowable over the prior art.

With respect to claims 3 and 4, these claims have been indicated to contain allowable subject matter. The Applicant has amended each of the aforementioned claims to include all the limitations of the base claim and any intervening claims, with the addition of the term "substantially" to modify perpendicular in each claim. Accordingly, the Applicant submits that claims 3 and 4 should be allowed. Finally, claim 32 has been amended to incorporate all the limitations of claims 3 and 4 so as to remain a combination claim including all the limitations of claims 1, 5, 11 and 15.

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Based on the amendments to the claims and the above remarks, reconsideration of the application and passage of the application to issue is respectfully requested. If the Examiner should have any additional questions or concerns regarding the allowance of this application, the Applicant cordially invites the Examiner to contact the undersigned at the number provided below if it would further expedite the prosecution.

Respectfully submitted,



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